



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 20 September 2013
(OR. en)**

13602/13

CRS/CRP 28

SUMMARY RECORD

Subject: 2462nd meeting of the PERMANENT REPRESENTATIVES COMMITTEE
(Part 2) held in Brussels on 24 July 2013

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1. Adoption of the provisional agenda and "I" items

doc. 12628/1/13 REV 1 OJ/CRP2 28

The above-mentioned agenda is approved with the following changes :

The following items are **added** :

(Coreper Part 2, under I)

- 20. Council Decision on the signing, on behalf of the European Union, of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other, and the provisional application of Part IV thereof concerning trade matters**

 - **Date of the notification referred to in Article 3(2) of the Decision (Honduras)**
 - **Use of written procedure**

12638/13 AMLAT 26 WTO 169 SERVICES 30 COMER 175 PESC 933
- 21. Council Decision on the signing, on behalf of the European Union, of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other, and the provisional application of Part IV thereof concerning trade matters**

 - **Date of the notification referred to in Article 3(2) of the Decision (Nicaragua)**
 - **Use of written procedure**

12639/13 AMLAT 27 WTO 170 SERVICES 31 COMER 176 PESC 934
- 22. Council Decision on the signing, on behalf of the European Union, of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other, and the provisional application of Part IV thereof concerning trade matters**

 - **Date of the notification referred to in Article 3(2) of the Decision (Panama)**
 - **Use of written procedure**

12640/13 AMLAT 28 WTO 171 SERVICES 32 COMER 177 PESC 935

The Committee approved the "I" items as set out in the summary. Details are contained in the document quoted under item 1.

Coreper Part 2

II

14. European Union Civil Service Tribunal

- **Appointment of a judge**
12409/13 JUR 372 COUR 69
12232/13 JUR 364 COUR 67 + COR 1
12031/13 JUR 107 COUR 7
+ ADD 1
+ ADD 2

Representatives of the governments of the Members States concluded that there was no unanimity on the appointment of a judge at the European Union Civil Service Tribunal.

15. Cohesion Policy legislative package (First reading)

- **Validation of preliminary results with a view to negotiations with the European Parliament**
- **Element of a partial general approach**
12383/13 FSTR 80 FC 46 REGIO 156 SOC 598 AGRISTR 87 PECHE 332
CADREFIN 194 CODEC 1768
+ ADD 1-5

The Committee:

- i. Validated the outcome of the trilogues on the Financial Instruments, on the Ex-ante conditionalities, and on the Revenue generating operations & PPPs (article 54(8) of CPR) as set out in 12383/13 ADD 1, 2 and 3 as well as the technical adjustment to the ETC regulation set out in 12383/13 ADD 4, subject to the principle that "nothing is agreed until everything is agreed" and that it is subject to legal scrutiny and finalisation by the jurist-linguists.
- ii. Reached a partial general approach on the Macro-economic conditionalities (article 21 of CPR) as set out in 12383/13 ADD 5.

iii. Took note of the Commission declaration on the Macro-economic conditionalities:

"The Commission confirms that it will, not later than 6 months from the entry into force of the Common Provisions Regulation, issue guidelines in the form of a Communication of the Commission explaining how it envisages that the provisions on macroeconomic conditionality as laid down in Article 21 CPR will be applied. The guidelines will cover in particular the following elements:

- in relation to paragraph 1, the notion of 'review' and the types of 'amendments' to Partnership Agreements and programmes that could be requested by the Commission as well as clarifying what can constitute 'effective action' within the meaning of paragraph 5;
- in relation to paragraph 5, an indication of the circumstances which may give rise to suspension of payments, including criteria which may be relevant in determining the programmes which could be suspended or in determining the level of suspension of payments;
- in relation to paragraph 5bis, guidance on the suspension of commitments under procedures other than the Excessive Deficit Procedure (EDP) and the Excessive Imbalance Procedure (EIP), on circumstances which may give rise to suspension of payments or commitments, and elements which may be taken into account in determining the programmes which could be suspended or in determining the level of suspension of payments;
- in relation to paragraph 7, indications on the gradation of amounts of suspension of commitments and payments to be proposed by the Commission and the elements to be taken into account to ensure that the suspension is proportionate and effective and respects equality of treatment between Member States."

16. Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) N° 1083/2006 as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability and to the de-commitment rules for certain Member States

- Adoption of a general approach

12479/13 FSTR 82 FC 48 REGIO 159 SOC 602 CADREFIN 197

FIN 459 CODEC 1783

+ ADD 1

The Committee:

- i. On the basis of document 12479/13 ADD 1 REV 1, agreed to launch a written procedure with a view to reaching a General Approach (CM 3915/13);
- ii. invited the Chair to communicate, if appropriate, the outcome of that written procedure to the European Parliament with a view to reaching a first reading agreement;
- iii. Took note of the following declarations of:
 - a. Hungary on increased co-financing for programme countries:

"The European Council in its February 2013 conclusions decided on higher co-financing rate for countries receiving financial assistance in accordance with Articles 136 and 143 of the TFEU.

The initiative made by Portugal to the Proposal amending Regulation 1083/2006/EC suggests that a programme Member State could benefit from the top-up prolongation even in case when it has left the adjustment programme in the meantime. This initiative was discussed at the 24 July 2013 Committee meeting and was supported by the Commission and some Member States.

In our view the Portuguese proposal is justified, given that a Member State exiting the financial assistance programme continues to face similar or even greater pressures than during the period of financial assistance. On one hand, it no longer receives financial assistance but still faces serious challenges to financial stability, on the other hand it has to pay back the amounts received in the programme, while following strict budgetary discipline (reducing debt ratios and keeping deficits under control). In such an environment, using the funds for generating growth and jobs remain essential.

Hungary believes that the position of the Committee on increased co-financing rate for programme countries should follow the equal treatment of all Member States which are in a post-programme phase still paying back the financial assistance to the European Commission. Regardless of the fact whether a Member State exited the adjustment programme before or will exit after the entry into force of the modification, it should be eligible for the top-up mechanism. This approach is the only way to ensure the equal treatment of Member States being in the post-programme phase within the same period of time.

We believe that this would better serve the objective set out in the recital to the Commission's proposal, highlighting that "the impact of the financial crisis on the real economy, the labour market and citizens is being widely felt" and "pressure on national financial resources is increasing".

We consider this issue to be of prime importance. It is also essential to note that extending this provision to all Member States concerned would not increase the annual payment ceilings or influence the allocations available to the Member States over the period.

The equal treatment should be carefully respected taking into account the comparable situation of Member States. If one were to amend the rules on the co-financing rate of cohesion policy programmes covered by the financial envelope for the 2007-2013 period so as to incorporate an increase of this rate for Member States receiving financial assistance under an adjustment programme at the date of entry into force of the proposed amending Regulation, the issue of equal treatment of a Member State having received financial assistance during the period of reference yet no longer being under a programme at the date of entry into force would arise and would need to be addressed.

Hungary maintains all possibilities for ensuring the application of equal treatment, including legal remedies before the European Court of Justice, in case this principle is not applied."

b. Bulgaria, Cyprus, the Czech Republic, Greece, Hungary, Latvia, Malta, Poland, Slovenia and Spain on unification of the de-commitment rule:

"Given the persisting impact and consequences of economic and financial crisis it is even more necessary to mobilize all the available financial resources from Structural Funds and the Cohesion Fund with the objective of stimulating growth enhancing public investment. It is also necessary to establish conditions for stable financial flows from the Funds, which leads to enhanced continuity and predictability for final beneficiaries. Strict budget consolidation efforts in Member States and a lack of national public investments further emphasize the need to exploit fully the potential of all EU resources and use them in the most efficient and effective way to boost the EU growth and employment.

The conclusions of the European Council from 8 February 2013 clearly stated that the n+3 rule will be applied in general for the period 2014-2020 (provision 87). Since in the period 2007-2013 a group of less developed Member States was granted n+3 rule for years 2007-2010, we are convinced that the unification of de-commitment rules for both periods – i.e. extension of n+3 rule to years 2011-2013 - would ensure a more fluent and better prepared implementation of operational programmes and projects and thus contribute to a more performance based policy. Furthermore such a systemic approach would reduce the pressure to implement the project to reimburse the claims from the EU budget, particularly in years 2013 and 2014. And finally, a substantial risk of de-commitment of the EU funds in 2013, shortly before the forthcoming European elections, may also convey a wrong message to citizens that the Union is not able to use its full potential for crisis management. Therefore, several Member States presented on 7 of June a non-paper containing possible systemic solution regarding de-commitment rule.

Bulgaria, Cyprus, the Czech Republic, Greece, Hungary, Latvia, Malta, Poland, Slovenia and Spain would like to express a strong disappointment with the fact that both in the Commission Proposal as well as in the Presidency compromise text on the amending proposal for Council Regulation (EC) No 1083/2006 as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability and to the de-commitment rules for certain Member States (overall 8th amending proposal) a more systemic solution for the automatic de-commitment rule has not been proposed reflecting a number of requests raised by the Member States. The Member States undersigned call for a more flexible and constructive approach of the Commission as well as of other Member States in the next round of discussions expected in September 2013 that would enable to find a fair and balanced solution also in the context of upcoming negotiation with the European Parliament."

17. South Africa - EU Summit (Pretoria, 18 July 2013)
- Debriefing

The EEAS and the Commission debriefed the Committee on the outcome of the sixth South Africa-EU Summit held on 18 July 2013 in Pretoria. They welcomed the Summit as a successful one, highlighting the deliverables in various areas.

18. Follow-up to the Council meeting (Foreign Affairs) on 22 July 2013

The Committee took note of the follow-up of this session as outlined in a note prepared by the EEAS. The Presidency mentioned that a written procedure (to be closed the following day) in relation to the Herzollah listing was on-going. In addition, delegations had a short discussion on the Eastern Partnership, notably on the Prague formula. This discussion would be continued in the PSC the following day.

19. Ad hoc EU-US working group on data protection (*restricted session*)

a) Debriefing from the meeting on 22/23 July 2013

b) Presidency's reply to M. Schulz letter

12597/13 JAI 647 DATAPROTECT 108 COTER 104

ENFOPOL 246 USA 39

12599/13 JAI 648 DATAPROTECT 109 COTER 105

ENFOPOL 247 USA 40

The Presidency and the Commission presented a brief overview of the meeting of the Ad hoc EU-US working group on data protection which took place on 22 and 23 July 2013. The Presidency also conveyed four US questions to the Member States.

The Committee agreed to the reply to the European Parliament, as set out in 12599/1/13 REV 1.

- Any other business

The Presidency informed the Committee on the outcome of the informal JHA Ministerial held in Vilnius on 18-19 July 2013.